

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SUSAN K. DALTON,)	
)	
Plaintiff,)	8:06cv773
)	
vs.)	MEMORANDUM AND ORDER
)	
CITY OF OMAHA,)	
)	
Defendant.)	

In an Order to Show Cause on January 23, 2007 (Filing No. 5), Magistrate Judge Thomas D. Thalken issued an Order to Show Cause questioning whether this case should be dismissed for lack of subject matter jurisdiction and/or failure to state a claim on which relief may be granted (failure to file an administrative claim under the Political Subdivisions Tort Claims Act). Magistrate Judge Thalken also took the plaintiff's Motion for Leave to Proceed In Forma Pauperis ("IFP") under advisement pending the plaintiff's response to the Order to Show Cause, and he gave the plaintiff, Susan K. Dalton, until February 15, 2007, to provide any reason she may have why the case should not be dismissed. Magistrate Judge Thalken warned the plaintiff that, in the absence of a timely and sufficient Response to the Order to Show Cause, this matter would be subject, without further notice, to dismissal without prejudice.

There has been no response by the plaintiff, and the deadline for the required action has expired. Thus, this case is deemed abandoned, and the plaintiff's Motion for Leave to Proceed IFP is denied. In addition, pursuant to 28 U.S.C. § 1915(e)(2) (the "IFP statute"), Fed. R. Civ. P. 12(h)(3) (dismissal in the absence of subject matter jurisdiction)

and NECivR 41.1 (failure to prosecute),¹ the plaintiff's complaint and the above-entitled action are dismissed without prejudice. A separate judgment will be entered accordingly.

SO ORDERED.

DATED this 20th day of February, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge

¹NECivR 41.1 states in pertinent part: "At any time when it appears that any action is not being prosecuted with reasonable diligence the court may dismiss it for lack of prosecution."